BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA



Order Instituting Rulemaking Regarding Policies,)
Procedures and Rules for the California Solar Initiativ	e,)
the Self Generation Incentive Program and Other)
Distributed Generation Issues	ĺ

Rulemaking 06-03-004 (Filed March 2, 2006)

RESPONSE OF TECHNET IN OPPOSITION TO FUEL CELL ENERGY INC.'S PETITION FOR MODIFICATION OF DECISION 04-12-045

Pursuant to Rule 16.4(f) of the California Public Utilities Commission ("Commission") Rules of Practice and Procedure, TechNet ("TechNet") submits this Response in support of President Peevey's Proposed Decision [define] and in opposition to Fuel Cell Energy Inc.'s ("FCE's") petition for modification of Decision 04-12-045 ("Petition").

TechNet – the bipartisan, political network of CEOs and Senior Executives that promotes the growth of technology and the innovation economy – is in support of President Peevey's Proposed Decision denying FCE's request to increase the limit of incentive payments available under the Self-Generation Incentive Program ("SGIP") from the current cap of 1 MW to 3 MW.

I) Introduction

The Proposed Decision of President Peevey denying the petition by Fuel Cell Energy to modify Decision 04-12-045 should not be changed. Retaining the 1 MW cap on incentives for any one project will allow more Californian's to benefit from the program. More consumers and vendors participating in the program will foster greater competition, innovation, and as a result, cost reduction. This is the way to ensure the program delivers the maximum positive impact to California's consumers, the environment, and the economy. The Proposed Decision correctly recognizes that a few large projects could quickly exhaust the fund. The amended petition does not adequately address this very real problem. Limiting eligibility to renewable projects and

establishing tiered payment limits still would allow one individual project to receive \$9.5 million. This modification does not alleviate the fact that a few projects could commandeer too much of the SGIP funds, thereby stifling competition innovation.

II) Background on TechNet

In 1997, the technology industry's leading Chief Executive Officers (CEOs) created TechNet to shape public policy impacting the high technology industries. Today, TechNet is the preeminent bipartisan political network of CEOs that promotes the growth of technology and the innovation economy. TechNet's members are the nation's leading innovators in the fields of information technology, e-commerce, biotechnology, clean energy technology, venture capital and investment banking – representing over one million employees. In addition to its headquarters in Washington, D.C., TechNet has a regional presence in the high-tech centers of Silicon Valley, New England, Texas, and the Pacific Northwest.

The technology industries have powered the nation's economy, productivity growth and job creation for decades by creating new technologies and innovations that have transformed industries, fueled economic growth and fostered job creation. Technological progress driven by innovation has been responsible for up to one-half the growth of the U.S. economy in recent decades. It is also a principal factor in increased job creation, improved standards of living and quality of life gains.

Since its inception, TechNet's mission has been to promote innovation. Public policies and private sector initiatives that spur our nation's innovation-driven global competitiveness are our top priority. Recognizing the energy and environmental crises, and the enormous potential of innovation as a solution, TechNet launched a Green Technologies Task Force in 2007. TechNet's Green Technologies Initiative embodies our longstanding commitment to new technologies and new ideas that together can resolve our nation's most pressing challenges.

III) The Commission should adopt the President Peevey's Proposed Decision to promote competition, accelerate innovation, and best serve the interests of the California clean tech industry and California consumers.

Given our history, TechNet is uniquely positioned to comment on the most effective ways to promote new industry and accelerate innovation. We recognize the important role policy and regulations play in fostering an environment where new technologies can thrive.

Fundamentally, we believe there are two major objectives that any sound public policy should promote to help the private sector commercialize viable new technologies: (1) promoting competition and (2) helping new technologies to reach economies of scale.

Programs like the SGIP are designed to satisfy both of these objectives. SGIP incentives are critical for helping new technologies in their early years. It allows them to approach the volume thresholds beyond which they no longer require state incentives. The accessibility of these funds to a portfolio of technologies and vendors help make the economics work for many consumers.

Fuel Cell Energy's request to lift the 1 MW cap on incentives from this program would create a situation where a vast portion of each utility's SGIP budget would be limited to very few, large projects. This would stifle competition and limit the pool of available funds to a small number of consumers, thereby limiting the program's effectiveness.

President Peevey's Proposed Decision correctly recognizes that raising the incentive cap would result in a substantial portion of the SGIP budget being used by one or two large projects rather than being broadly disbursed to support more fuel cell projects and technologies, a result at this stage that might miss demonstrating the most promising technology. If this Petition is granted, one 3 MW installation at a wastewater treatment facility would receive \$9.5 million (\$4.5 million for the first MW and \$5 million for the next two MW). That is more than the entire 2007 SGIP budget for Southern California Gas Company, and would consume all but \$400,000 of the San Diego Regional Energy Office's 2007 budget.

Without a significant expansion of the SGIP budget, the Petitioner's claims that this proposal would not stifle competition are simply erroneous because the vast majority of funding could go to one project using one company's technology.

Instead, SGIP funds should support many installations of many different technologies—both legacy fuel cell technologies and the new technologies that are on the cusp of commercial release. Doing so would foster innovation by promoting competition and would also ensure that more installations are funded, thereby increasing volumes and driving down costs.

Although the SGIP pool of funds were not exhausted in 2007 and may not be fully utilized in 2008, the projected growth of the technologies supported by the SGIP indicate that demand will soon exceed supply for these funds. Adopting this proposed modification would lock up the majority of the SGIP funds, thereby putting the brakes on the roll-out of newer technologies that would benefit from this program. The Proposed Decision correctly recognizes that making this change would have a deleterious effect on California's clean energy future.

IV) Proposed modifications that could change TechNet from a position of supporting President Peevey's decision to a position supporting a modification to this program:

Since the intention of SGIP is to foster wide scale adoption of clean technologies, we believe that it is critical to provide safeguards to ensure that this expansion will serve the intended purpose of increasing distributed generation installations in the state, not limit them to a handful of multi-megawatt installations at jails or wastewater treatment facilities.

TechNet could potentially support this petition if it simultaneously (a) created safeguards to ensure that the maximum number of projects receive funds under the program and (b) increased funding for the program to accommodate more projects. If more funding is available, we would also support providing a greater level of support to California-based companies, in order to allow California to capture a greater share of the green-collar jobs created by our energy programs, as do similar programs in states like Massachusetts and Washington.

Without these guarantees in place, lifting the 1 MW cap could inhibit the commercialization

of the types of technologies that can help California meet its self-generation, job creation, and

carbon reduction goals most cost-effectively.

V) Conclusion

TechNet respectfully supports President Peevey's Proposed Decision. In order to promote

innovation, competition, and cost reductions, TechNet prefers to see great programs like the SGIP

helping the many rather than the few.

Dated: February 22, 2008

Respectfully submitted,

/s/

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PROOF OF SERVICE

I declare that:

I am employed in the County of Sacramento, State of California. I am over the age of eighteen years and am not a party to the within action. My business address is 855 El Camino Real, Suite 250, Palo Alto, California 94301; telephone is (650) 473-1161.

On February 20, 2008, I served the attached *Response of TechNet in Opposition to Fuel Cell Energy Inc.'s Petition for Modification of Decision 04-12-045* by electronic mail or, if no email address was provided, by United States mail at Sacramento, California, addressed to each person shown on the attached service lists [R06-03-004 and R04-03-017].

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on August 30, 2007, at Sacramento, California.

/s/	
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